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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

VALERIE J. THOMAS,

Plaintiff,

v.

CERES POLICE OFFICER JOHN  
CASALLS, et al.

Defendants.

CASE NO. CV-F-99-6781 AWI LJO

SCHEDULING CONFERENCE ORDER

Expert Disclosure: December 1, 2000

Supplemental  
Expert Disclosure: December 8, 2000

Nonexpert  
Discovery Cutoff: November 1, 2000

Expert  
Discovery Cutoff: January 15, 2001

Pretrial  
Motion Filing  
Deadline: January 19, 2001

Pretrial Motions  
Hearing Deadline: February 23, 2001

Settlement Conf.: Date July 14, 2000  
Time 10:30 a.m.  
Magistrate Judge Hollis Best  
Room 4017

Pretrial Conf.: Date - March 1, 2001  
Time - 8:30 a.m.  
Dept. - 6 (LJO)

Jury Trial: Date - April 16, 2001  
(5-10 days est.) Time - 9 a.m.  
Dept. - 6 (LJO)

1 Pursuant to this Court's order, this matter came on for a mandatory scheduling conference on  
2 April 26, 2000 at 8:30 a.m. in Department 6 of this Court. Plaintiff Valerie J. Thomas appeared by  
3 telephone by counsel Kevin G. Little of Frampton, Williams & Little. The City of Ceres appeared by  
4 telephone by counsel Michael B. Ijams of Curtis and Arata and defendant Ceres Police Officer John R.  
5 Casaus (erroneously sued as John Casalls) appeared by telephone by counsel Michael J. Macko of  
6 Borton, Petrini & Conron, LLP. Pursuant to F.R.Civ.P. 16(b), the Court by this order sets a schedule  
7 for this action.

8 1. Summary of the Case

9 This is a 42 U.S.C. § 1983 and related claims action arising out of defendants' search of  
10 plaintiff's home.

11 2. Summary of Pleadings

12 Plaintiff filed the complaint on December 20, 1999. Defendant Ceres answered on January 10,  
13 2000 and defendant officer Casaus answered on February 9, 2000.

14 3. Summary of Factual and Legal Contentions

15 For a summary of the factual and legal contentions, the Court refers to the parties' Mandatory  
16 Scheduling Conference Statement, filed April 13, 2000, at page 1, line 24 to page 3, line 27.

17 Plaintiff brought this civil rights action against the CITY OF CERES and JOHN CASAUS,  
18 individually, a Police Officer for the CITY OF CERES, as a result of an incident which took place on  
19 or about March 24, 1999. Plaintiff contends that OFFICER CASAUS entered her house without  
20 permission during a search of her home by other officers, physically assaulted plaintiff and made  
21 derogatory, sexist and racial comments to her. As a result of this incident, Plaintiff contends that she  
22 suffered physical, emotional and financial injuries and seeks compensation for these injuries.  
23 Specifically, plaintiff contends she sustained severe wrist and arm injuries that have left her permanently  
24 impaired. Plaintiff also contends she lost wages. Plaintiff further contends that she did nothing to  
25 provoke OFFICER CASAUS.

26 Defendant, OFFICER CASAUS, contends that he properly entered Plaintiff's home out of his  
27 concern for his fellow officers safety. OFFICER CASAUS further contends that the Plaintiff physically  
28 pushed him at least twice and when she attempted to push him a third time, it was necessary for

1 OFFICER CASAUS to place a brief restraint hold on the Plaintiff. Once the Plaintiff calmed down, the  
2 restraint was released.

3 OFFICER CASAUS contends that all his actions were justified under the circumstances.

4 THE CITY OF CERES contends that Officer Casaus was at the police station and responded to  
5 a robbery report on the police radio. He arrived at plaintiff's residence after plaintiff's son had been  
6 taken into custody on suspicion of armed robbery, and after three Ceres police officers had received  
7 permission from plaintiff to enter her residence to search for evidence of the crime. Officer Casaus was  
8 aware that officers were inside plaintiff's residence searching for a handgun allegedly used in an armed  
9 robbery by plaintiff's son, and that the officers inside had not found the weapon.

10 While officer Casaus was standing outside plaintiff's residence he observed the plaintiff at the  
11 door or outside the residence in an agitated condition. Officer Casaus became concerned for the safety  
12 of the officers inside the residence after he spoke with the plaintiff at the door of her residence, and  
13 entered the residence to ascertain the safety of the officers inside conducting the search. When plaintiff  
14 questioned officer Casaus about the reason for his entry, he explained to her that he needed to enter the  
15 residence to check on the other officers.

16 Plaintiff attempted to prevent Officer Casaus from reaching the part of the apartment where the  
17 other officers were conducting their search. This further raised his concern for the safety of the officers  
18 inside.

19 Plaintiff apparently directed verbal abuse toward Officer Casaus, and then pushed and/or struck  
20 him two or three times. Officer Casaus told the plaintiff not to push him or place her hands on him, but  
21 plaintiff did not cease or desist in her conduct. Officer Casaus then took plaintiff by her left wrist,  
22 placed her in a restraint hold, and placed her on the floor. Officer Casaus told plaintiff that he would  
23 let her up as soon as she ceased struggling. Officer Casaus then released plaintiff, who got up from the  
24 floor and ran to her bedroom.

25 The City of Ceres contends that Officer Casaus' actions in entering the apartment were based  
26 upon a reasonable and good faith belief that he needed to ascertain the safety of the officers inside the  
27 apartment. The City of Ceres further contends that Officer Casaus' actions in restraining plaintiff were  
28 reasonable under the circumstances.

4. Summary of Contested and Uncontested Facts

For a summary of the contested and uncontested facts of this case, the Court references the parties' Mandatory Scheduling Conference Statement, filed April 13, 2000, at page 4, line 4 to page 5, line 12.

A. Uncontested Facts

1. On March 24, 1999, members of the Ceres Police Department came to plaintiff's home looking for one of her sons.
2. Plaintiff consented to a search of her home.
3. OFFICER CASAUS entered Plaintiff's home.
4. OFFICER CASAUS used force on the Plaintiff.

B. Contested Facts

1. Whether the City of Ceres Police Department officers went to Plaintiff's home in search of a suspect in an armed robbery.
2. Whether OFFICER CASAUS made sexist and/or racial comments to the Plaintiff.
3. Whether one of plaintiff's sons was a suspect in an armed robbery.
4. Whether the Plaintiff physically touched OFFICER CASAUS before the restraint hold was administered.
5. Whether OFFICER CASAUS made disrespectful and/or derogatory comments to the Plaintiff.
6. Whether plaintiff was cooperative or uncooperative with Officer CASAUS.
7. Whether OFFICER CASAUS was checking on the safety of his fellow officers when he entered plaintiff's home.
8. Whether OFFICER CASAUS applied a restraint hold.
9. Whether Plaintiff was "exposed" during the restraint hold process.
10. The mechanics as to how the restraint hold was applied.

11. Whether OFFICER CASAUS asked Plaintiff if she wanted to go to jail.
12. Statements made by a female officer following the incident with OFFICER CASAUS.
13. What was the purpose of the search of plaintiff's house.
14. Nature and extent of plaintiff's injuries.
15. Nature and extent of plaintiff's damages.

5. Summary of Contested and Uncontested Legal Issues

For a summary of the contested and uncontested legal issues, the Court references the parties' Mandatory Scheduling Conference Statement at page 5, line 14-19.

A. Uncontested Legal Issues

The parties appear not to dispute jurisdiction and venue issues.

B. Contested Legal Issues

The parties contest all other legal issues.

6. Consent to Magistrate Judge

Counsel for the parties indicated to the Court they consent to the conduct of all further proceedings, including trial, in this case before United States Magistrate Judge Lawrence J. O'Neill. Concurrently with this order, the Court has issued an Order to Forward and Return Magistrate Consent Form directing the clerk of this Court to mail a Consent to Exercise of Jurisdiction by a United States Magistrate Judge ("consent form") to plaintiff's counsel who is directed to sign and date the form, then to forward the consent form with the necessary signature to defendants' counsel for signature. Both defendants' counsel are directed to sign and date the consent form and return it to the Chambers of United States Magistrate Judge Lawrence J. O'Neill, 1130 "O" Street, Room 1116, Fresno, CA 93721.

7. Expert Witnesses

Any expert witness disclosures shall be served no later than December 1, 2000. Any supplemental expert witness disclosures shall be served no later than December 8, 2000. Notwithstanding the provisions of this Court's Local Rule 26-252(b), such disclosures must be made pursuant to F.R.Civ.P. 26(a)(2)(A) and (B) and shall include all information required thereunder. In

1 addition, F.R.Civ.P. 26(b)(4) shall apply to all discovery relating to expert witnesses and their opinions.  
2 Expert witnesses must be fully prepared to be examined on all subjects and opinions included in the  
3 designations. Failure to comply with these requirements will result in the imposition of appropriate  
4 sanctions, which may include the preclusion of testimony or other evidence offered through the expert  
5 witness.

6 8. Discovery Cut-Off

7 All nonexpert discovery and related discovery motions (including motions to compel) shall be  
8 completed or heard no later than November 1, 2000. All expert discovery and related discovery motions  
9 (including motions to compel) shall be completed or heard no later than January 15, 2001.

10 9. Pretrial Motion Schedule

11 All pretrial motions, both dispositive and nondispositive (except discovery motions addressed  
12 above) shall be served and filed no later than January 19, 2001. All pretrial dispositive and  
13 nondispositive motions (except discovery motions addressed above) shall be set before the appropriate  
14 judge for a hearing no later than February 23, 2001.

15 10. Mandatory Settlement Conference

16 This matter is set for a mandatory settlement conference on July 14, 2000 at 10:30 a.m. before  
17 United States Magistrate Judge Hollis Best in Room 4017 of this Court. Unless otherwise permitted in  
18 advance by the Court, the attorneys who will try the case shall appear at the mandatory settlement  
19 conference with the parties and the person or persons having full authority to negotiate and settle the  
20 case, on any terms, at the conference.

21 At least five court days prior to the settlement conference, the parties shall submit directly to the  
22 settlement conference judge's chambers a confidential settlement conference statement. This statement  
23 should neither be filed with the clerk of the Court nor served on any other party. Each statement shall  
24 be clearly marked "CONFIDENTIAL" with the date and time of the mandatory settlement conference  
25 indicated prominently. Counsel are urged to request the return of their statements. If such request is  
26 not made, the Court will dispose of the statement.

27 The Confidential Settlement Conference Statement shall include the following:

28 A. A brief statement of the facts of the case;

1 B. A brief statement of the claims and defenses (i.e., statutory or other grounds upon  
2 which the claims or defenses are based), a forthright evaluation of the parties' likelihood of prevailing  
3 on the claims and defenses, and a description of the major issues in dispute;

4 C. A summary of the proceedings to date;

5 D. An estimate of the cost and time to be expended for further discovery, pretrial,  
6 and trial;

7 E. The relief sought; and

8 F. The party's respective position on settlement, including present demands and  
9 offers, and a history of past settlement discussions, offers, and demands.

10 Should the parties desire a settlement conference prior to the date set for the mandatory  
11 settlement conference, they should jointly request one of the Court, and one will be arranged. In making  
12 such request, the parties are directed to notify the Court as to whether or not they desire the undersigned  
13 to conduct the settlement conference or to arrange for one before another judicial officer.

14 11. Pretrial Conference

15 A pretrial conference is set for March 1, 2001 at 8:30 a.m. in Department 6 (LJO) of this Court.  
16 The parties are directed to file a joint pretrial statement which complies with the requirements of this  
17 Court's Local Rule 16-281(a)(2). In addition, the joint pretrial statement should include a brief factual  
18 summary and an agreed neutral statement of the case. The parties are further directed to submit an  
19 additional copy of their pretrial statement on a 3.5" computer disc formatted for WordPerfect 8.0.

20 The parties' attention is directed to this Court's Local Rules 16-281 and 16-282. The Court will  
21 insist upon strict compliance with those rules.

22 12. Trial Date

23 A jury trial is set for April 16, 2001 at 9 a.m. in Department 6 (LJO) of this Court. The parties  
24 estimate that trial will last 5-10 days.

25 The parties' attention is directed to this Court's Local Rule 16-285.

26 Defendants request bifurcation of punitive damages. Plaintiff does not request bifurcation of  
27 issues at trial.

28



13. Effect of this Order

This order represents the best estimate of the Court and parties as to the agenda most suitable to dispose of this case. If the parties determine at any time that the schedule outlined in this order cannot be met, the parties are ordered to notify the Court immediately of that fact so that adjustments may be made, either by stipulation or by subsequent status conference.

Stipulations extending the deadlines contained herein will not be considered unless they are accompanied by affidavits or declarations with attached exhibits, where appropriate, which establish good cause for granting the relief requested.

Failure to comply with this order shall result in the imposition of sanctions.

IT IS SO ORDERED.

DATED: April 25, 2000

  
LAWRENCE J. O'NEILL  
UNITED STATES MAGISTRATE JUDGE



United States District Court  
for the  
Eastern District of California  
April 27, 2000

\* \* CERTIFICATE OF SERVICE \* \*

1:99-cv-06781

Thomas

v.

Casalls

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on April 27, 2000, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

AWI LJO HGB *TB*

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BY: *Mikean S*

Deputy Clerk